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AMENDED IN ASSEMBLY APRIL 16, 1998
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AMENDED IN ASSEMBLY MARCH 23, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2134

Introduced by Assembly Member Escutia
(Coauthors: Assembly Members Aroner, Figueroa, Havice,
Hertzberg, Keeley, Kuehl, Migden, and Ortiz)
(Coauthors: Senators Karnette and Watson)

February 18, 1998

An act to amend Section 395 of the Code of Civil Procedure, ~~and to amend Section 2889.5 of, and to add Article 3.5 (commencing with Section 2894.10) and Article 4.4 (commencing with Section 2899) to Chapter 10 of Part 2 of Division 1 of, and to add Section 2894.10 to the Public Utilities Code, relating to public utilities, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2134, as amended, Escutia. Telecommunications: telephone service and telephonic solicitation.

(1) *Existing law provides that the proper county for trial of a lawsuit based on an action arising from a transaction consummated as a proximate result of an unsolicited telephone call made by a seller engaged in the business of*

consummating transactions of that kind is the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action.

This bill would provide the same venue when the lawsuit is based on an action arising from a transaction consummated as a proximate result of a telephone call or electronic transmission made by the buyer or lessee in response to a solicitation by the seller.

(2) Existing law prohibits a telephone corporation from making specified information available regarding a residential customer without first obtaining that customer's consent in writing.

This bill would require telephone corporations to provide their customers on an annual basis one or more specified items of information that would provide the customers with information regarding state and federal laws that protect the privacy rights of telephone customers. Existing law regulates persons involved in soliciting sales by telephone and requires, among other things, a telephonic seller to register with the Consumer Law Section of the Department of Justice.

This bill would require the Public Utilities Commission, on or before July 1, 1999, to establish a list of telephone numbers of consumers that do not want to receive telephonic solicitations, to be known as the "do not call list." The bill would require the commission to update the list, as prescribed. The bill, with certain exceptions, would prohibit a telephonic solicitor, as defined, from making, or causing to be made, any telephonic solicitation, as specified, to any residential, mobile, or telephonic paging device telephone number if the number for that telephone appears on the "do not call list." The bill would provide that a contract made pursuant to a prohibited telephone call by a telephonic solicitor is not valid and enforceable against a consumer.

The bill would require the commission to provide its "do not call list," upon request, to telephonic solicitors for a fee. The fee would be deposited in the Special Telephonic Solicitors Fund, which the bill would create. The money in the fund would be continuously appropriated to the commission for

~~expenditure, as prescribed. The bill would prohibit any person or entity that obtains access to the list from using the list for any purpose other than to comply with the provisions of the bill, and would prescribe related matters.~~

~~The bill would allow any person who has received a telephonic solicitation in violation of the bill's provisions to bring a civil action, as prescribed, against a telephonic solicitor to obtain an order for specified monetary and injunctive relief. The bill would authorize the Attorney General, district attorney, or city attorney to bring an action to obtain prescribed relief in the event of a violation of the prohibition. The bill would make a person who willfully violates the provisions relating to telephonic solicitations guilty of a misdemeanor, thereby imposing a state-mandated local program by creating a new crime. The bill would make related legislative findings and declarations.~~

~~(2) Under existing law, the commission has regulatory authority over the rates and services of telephone corporations.~~

~~This bill would require a telephone corporation, upon receiving a request for a telephone number in connection with its provisions of directory assistance services, to provide the telephone number to the requester at least 2 times before disconnecting the requester. The bill would prohibit the imposition of any additional charge upon a local telephone user for the costs that may be incurred in complying with this provision.~~

~~(3) Existing law prohibits any telephone corporation from making any change in the provider of any telephone service, for which competition has been authorized, of a telephone subscriber until certain conditions have been met, including, with regard to the sale of residential telephone service, the requirement that the subscriber's decision to change his or her telephone service provider is confirmed by an independent third-party verification company, as specified.~~

~~This bill would extend that requirement to apply to the sale of business telephone service.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs~~

~~mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 395 of the Code of Civil
2 Procedure is amended to read:
3 395. (a) Except as otherwise provided by law and
4 subject to the power of the court to transfer actions or
5 proceedings as provided in this title, the county in which
6 the defendants or some of them reside at the
7 commencement of the action is the proper county for the
8 trial of the action. If the action is for injury to person or
9 personal property or for death from wrongful act or
10 negligence, either the county where the injury occurs or
11 the injury causing death occurs or the county in which the
12 defendants, or some of them reside at the
13 commencement of the action, shall be a proper county for
14 the trial of the action. In a proceeding for dissolution of
15 marriage, the county in which either the petitioner or
16 respondent has been a resident for three months next
17 preceding the commencement of the proceeding is the
18 proper county for the trial of the proceeding. In a
19 proceeding for nullity of marriage or legal separation of
20 the parties, the county in which either the petitioner or
21 the respondent resides at the commencement of the
22 proceeding is the proper county for the trial of the
23 proceeding. In a proceeding to enforce an obligation of
24 support under Section 3900 of the Family Code, the
25 county in which the child resides is the proper county for
26 the trial of the action. In a proceeding to establish and
27 enforce a foreign judgment or court order for the support
28 of a minor child, the county in which the child resides is
29 the proper county for the trial of the action. Subject to
30 subdivision (b), when a defendant has contracted to
31 perform an obligation in a particular county, either the

1 county where the obligation is to be performed or in
2 which the contract in fact was entered into or the county
3 in which the defendant or any such defendant resides at
4 the commencement of the action shall be a proper county
5 for the trial of an action founded on that obligation, and
6 the county in which the obligation is incurred shall be
7 deemed to be the county in which it is to be performed
8 unless there is a special contract in writing to the
9 contrary. If none of the defendants reside in the state or
10 if residing in the state and the county in which they reside
11 is unknown to the plaintiff, the action may be tried in any
12 county which the plaintiff may designate in his or her
13 complaint, and, if the defendant is about to depart from
14 the state, the action may be tried in any county where
15 either of the parties reside or service is made. If any
16 person is improperly joined as a defendant or has been
17 made a defendant solely for the purpose of having the
18 action tried in the county or judicial district where he or
19 she resides, his or her residence shall not be considered
20 in determining the proper place for the trial of the action.

21 (b) Subject to the power of the court to transfer
22 actions or proceedings as provided in this title, in an
23 action arising from an offer or provision of goods, services,
24 loans or extensions of credit intended primarily for
25 personal, family or household use, other than an
26 obligation described in Section 1812.10 or Section 2984.4
27 of the Civil Code, or an action arising from a transaction
28 consummated as a proximate result of either an
29 unsolicited telephone call made by a seller engaged in the
30 business of consummating transactions of that kind or a
31 telephone call or electronic transmission made by the
32 buyer or lessee in response to a solicitation by the seller,
33 the county in which the buyer or lessee in fact signed the
34 contract, the county in which the buyer or lessee resided
35 at the time the contract was entered into, or the county
36 in which the buyer or lessee resides at the
37 commencement of the action, is the proper county for the
38 trial thereof.

39 (c) If within the county there is a municipal or justice
40 court having jurisdiction of the subject matter

1 established, in the cases mentioned in subdivision (a), in
2 the judicial district in which the defendant or any
3 defendant resides, in which the injury to person or
4 personal property or the injury causing death occurs, or,
5 in which the obligation was contracted to be performed
6 or, in cases mentioned in subdivision (b), in the judicial
7 district which the buyer or lessee resides, in which the
8 buyer or lessee in fact signed the contract, in which the
9 buyer or lessee resided at the time the contract was
10 entered into, or in which the buyer or lessee resides at the
11 commencement of the action, then that court is the
12 proper court for the trial of the action. Otherwise, any
13 municipal or justice court in the county having
14 jurisdiction of the subject matter is a proper court for the
15 trial thereof.

16 (d) Any provision of an obligation described in
17 subdivision (b) or (c) waiving those subdivisions is void
18 and unenforceable.

19 ~~SEC. 2. Section 2889.5 of the Public Utilities Code is~~

20 *SEC. 2. Section 2894.10 is added to the Public Utilities*
21 *Code, to read:*

22 *2894.10. Every local exchange telephone corporation*
23 *shall provide its customers with information regarding*
24 *state and federal laws that protect the privacy rights of*
25 *telephone consumers by providing on an annual basis one*
26 *or more of the following items of information in the*
27 *billing statement of each customer and in conspicuous*
28 *notices in the consumer information pages of the local*
29 *telephone directories distributed by that telephone*
30 *corporation:*

31 *(a) A copy of any publications by the Department of*
32 *Consumer Affairs regarding telephone consumers'*
33 *privacy rights under federal and state laws.*

34 *(b) A copy of any publications by the commission*
35 *regarding telephone consumers' privacy rights under*
36 *federal and state laws.*

37 *(c) A copy of any publications by the Federal Trade*
38 *Commission or any other federal agency regarding*
39 *telephone consumers' privacy rights under federal and*
40 *state laws.*

1 (d) A copy of any publications regarding telephone
2 consumers' privacy rights under federal and state laws by
3 public or private agencies or organizations not listed in
4 subdivision (a), (b), or (c) that address telephone
5 consumers' rights under federal and state laws.

6 (e) A list of the publications in subdivisions (a), (b),
7 (c), and (d).

8 (f) Information on how to obtain the publications in
9 subdivisions (a), (b), (c), and (d).

10 amended to read:

11 ~~2889.5. (a) No telephone corporation, or any person,~~
12 ~~firm, or corporation representing a telephone~~
13 ~~corporation, shall make any change, or authorize a~~
14 ~~different telephone corporation to make any change, in~~
15 ~~the provider of any telephone service for which~~
16 ~~competition has been authorized of a telephone~~
17 ~~subscriber until all of the following steps have been~~
18 ~~completed:~~

19 ~~(1) The telephone corporation, or its representatives~~
20 ~~or agents, shall thoroughly inform the subscriber of the~~
21 ~~nature and extent of the service being offered.~~

22 ~~(2) The telephone corporation, or its representatives~~
23 ~~or agents, shall specifically establish whether the~~
24 ~~subscriber intends to make any change in his or her~~
25 ~~telephone service provider, and explain any charges~~
26 ~~associated with that change.~~

27 ~~(3) For sales of residential service, the subscriber's~~
28 ~~decision to change his or her telephone service provider~~
29 ~~shall be confirmed by an independent third party~~
30 ~~verification company. For purposes of this provision, the~~
31 ~~confirmation by a third party verification company shall~~
32 ~~be made as follows:~~

33 ~~(A) The third party verification company shall meet~~
34 ~~each of the following criteria:~~

35 ~~(i) Be independent from the telephone corporation~~
36 ~~that seeks to provide the subscriber's new service.~~

37 ~~(ii) Not be directly or indirectly managed, controlled,~~
38 ~~or directed, or owned wholly or in part, by the telephone~~
39 ~~corporation that seeks to provide the new service or by~~
40 ~~any corporation, firm, or person who directly or~~

~~1 indirectly manages, controls, or directs, or owns more
2 than 5 percent of the telephone corporation.~~

~~3 (iii) Operate from facilities physically separate from
4 those of the telephone corporation that seeks to provide
5 the subscriber's new service.~~

~~6 (iv) Not derive commissions or compensation based
7 upon the number of sales confirmed.~~

~~8 (B) The telephone corporation seeking to verify the
9 sale shall do so by connecting the subscriber by telephone
10 to the third-party verification company or by arranging
11 for the third party verification company to call the
12 subscriber to confirm the sale.~~

~~13 (C) The third party verification company shall obtain
14 the subscriber's oral confirmation regarding the change,
15 and shall record that confirmation by obtaining
16 appropriate verification data. The record shall be
17 available to the subscriber upon request. Information
18 obtained from the subscriber through confirmation shall
19 not be used for marketing purposes. Any unauthorized
20 release of this information is grounds for a civil suit by the
21 aggrieved subscriber against the telephone corporation
22 or its employees who are responsible for the violation.~~

~~23 (D) Notwithstanding subparagraphs (A), (B), and
24 (C), a service provider shall not be required to comply
25 with these provisions when the customer directly calls the
26 local service provider to make changes in service
27 providers. However, a service provider shall not avoid the
28 verification requirements by asking a subscribing
29 customer to contact a local exchange service provider
30 directly to make any change in the service provider. A
31 local exchange service provider shall be required to
32 comply with these verification requirements for its own
33 competitive services. However, a local exchange service
34 provider shall not be required to perform any verification
35 requirements for any changes solicited by another
36 telephone corporation.~~

~~37 (4) For sales of all business services, the subscriber's
38 decision to change his or her service provider shall be
39 confirmed through any of the following means:~~

1 ~~(A) Independent third party verification, as set forth~~
2 ~~in paragraph (3) of subdivision (a).~~

3 ~~(B) The telephone corporation shall mail to the~~
4 ~~subscriber an information package seeking confirmation~~
5 ~~of his or her change in the telephone corporation. The~~
6 ~~information package shall describe the new service and~~
7 ~~shall include a postage prepaid postcard or mailer that the~~
8 ~~subscriber can use to deny, cancel, or confirm a service~~
9 ~~order, as soon as possible, and wait 14 days after the~~
10 ~~information package is mailed before making the change~~
11 ~~in the telephone corporation. The telephone corporation~~
12 ~~shall make the change only if the subscriber does not~~
13 ~~cancel the change in service order.~~

14 ~~(C) Verify the subscriber's change in his or her~~
15 ~~telephone service provider by obtaining the subscriber's~~
16 ~~signature on a document fully explaining the nature and~~
17 ~~extent of the action. The document shall be a separate~~
18 ~~document whose sole purpose is to explain the nature and~~
19 ~~extent of the action.~~

20 ~~(D) Obtain the subscriber's authorization through an~~
21 ~~electronic means that takes the information, including~~
22 ~~the calling number, and confirms the change to which the~~
23 ~~subscriber has given his or her consent.~~

24 ~~(5) Where the telephone corporation obtains a~~
25 ~~written order for service, the document shall thoroughly~~
26 ~~inform the subscriber of the nature and extent of the~~
27 ~~action. The subscriber shall be furnished with a copy of~~
28 ~~the signed document. The subscriber by his or her~~
29 ~~signature on the document shall indicate a full~~
30 ~~understanding of the relationship being established with~~
31 ~~the telephone corporation. When a written subscriber~~
32 ~~solicitation or other document contains a letter of agency~~
33 ~~authorizing a change in service provider, in combination~~
34 ~~with other information including, but not limited to,~~
35 ~~inducements to subscribers to purchase service, the~~
36 ~~solicitation shall include a separate document whose sole~~
37 ~~purpose is to explain the nature and extent of the action.~~
38 ~~If any part of a mailing to a prospective subscriber is in~~
39 ~~language other than English, any written authorization~~

1 contained in the mailing shall be sent to the same
2 prospective subscriber in the same language.

3 (6) The telephone corporation shall retain a record of
4 the verification of the sale for at least one year. These
5 records shall be made available to the subscriber, the
6 Attorney General, or the commission upon request.

7 (b) If a residential or business subscriber that has not
8 signed an authorization notifies the telephone
9 corporation within 90 days that he or she does not wish to
10 change telephone corporations, the subscriber shall be
11 switched back to his or her former telephone corporation
12 at the expense of the telephone corporation that initiated
13 the change.

14 (c) For purposes of this section, competitive services
15 are those services where subscribers have the ability to
16 prescribe to a telephone service provider.

17 (d) When a subscriber changes telephone service
18 providers, the change shall be conspicuously noticed on
19 the subscriber's bill. Notice in the following form is
20 deemed to comply with this subdivision:

21
22 "NOTICE: Your local (or long distance) telephone
23 service provider has been changed from (name of prior
24 provider) to (name of current provider).
25

26 Cost of change: \$ ____."

27
28 (e) Any telephone corporation that violates the
29 verification procedures described in this section shall be
30 liable to the telephone corporation previously selected by
31 the subscriber in an amount equal to all charges paid by
32 the subscriber after the violation.

33 (f) The remedies provided by this section are in
34 addition to any other remedies available by law.

35 (g) As described in federal law, no telephone
36 corporation, or any person, firm, or corporation
37 representing a telephone corporation, shall make any
38 change or authorize a different telephone corporation to
39 make any change in the provider of any telephone service
40 for which competition has been authorized of a telephone

1 subscriber without having on file, or having instituted
2 reasonable steps designed to obtain, signed, dated orders
3 for service from the subscriber. All orders shall be in the
4 form prescribed in federal law for letters of agency. As
5 described in federal law, the telephone corporation is
6 responsible for charges associated with disputed changes
7 in telephone service for which it cannot produce a signed,
8 dated order for service from the subscriber. This
9 subdivision applies to all intrastate services for which
10 competition has been authorized.

11 SEC. 3. Article 3.5 (commencing with Section
12 2894.10) is added to Chapter 10 of Part 2 of Division 1 of
13 the Public Utilities Code, to read:

14
15 Article 3.5. Telephone Consumer Privacy Rights Act
16 of 1998
17

18 2894.10. This article shall be known and may be cited
19 as the Telephone Consumer Privacy Rights Act of 1998.

20 2894.11. The Legislature finds and declares all of the
21 following:

22 (a) There is a compelling state interest in protecting
23 the right of privacy of telephone subscribers.

24 (b) To exercise their right of privacy, telephone
25 subscribers should be able to limit the distribution of their
26 telephone numbers to persons of their choosing.

27 (c) The act of becoming a telephone subscriber should
28 not undermine or diminish a person's right to privacy as
29 guaranteed under Section 1 of Article 1 of the California
30 Constitution.

31 2894.12. (a) Every local exchange telephone
32 corporation shall inform its customers of the provisions of
33 this article, including how to have their telephone
34 number included on the "do not call list" described in
35 Section 2894.14, together with information about other
36 state and federal laws that protect the rights of telephone
37 consumers. At a minimum, every telephone corporation
38 shall convey this information through inserts in billing
39 statements on an annual basis and through conspicuous

1 notices in the consumer information pages of any local
2 telephone directory distributed by that company.

3 (b) The commission shall publicize the provisions of
4 this article and other state and federal laws that protect
5 the rights of telephone consumers through the use of
6 public service announcements, brochures, the posting of
7 information on its Internet website, and by other
8 reasonable means of communication designed to ensure
9 that members of the public are aware of their rights as
10 telephone consumers.

11 2894.14. (a) On or before July 1, 1999, the commission
12 shall establish a list of telephone numbers of persons that
13 do not want to receive telephonic solicitations, to be
14 known as the “do not call list.” The “do not call list” shall
15 be updated on a regular basis, as determined by the
16 commission, but not less than once every three months.

17 (b) A person may request the commission to add to, or
18 remove from, the “do not call list” up to five telephone
19 numbers assigned to that person by mailing a letter or
20 postcard to the commission, or, if the necessary
21 technology is made available by the commission, by
22 computer e-mail or communication with an appropriate
23 Internet website.

24 (c) (1) For purposes of this section, “telephonic
25 solicitor” means any person or entity who initiates or
26 causes the initiation of a telephone call or message for the
27 purpose of encouraging or soliciting the purchase, lease
28 or rental of, or investment in, real or personal property,
29 goods, or services, offering or soliciting any extension of
30 credit for personal purposes, or seeking to obtain
31 marketing information for any purpose, which is
32 transmitted to any person. “Telephonic solicitor” does
33 not include a call or message by a tax-exempt nonprofit
34 organization, or by a newspaper publisher.

35 (2) For purposes of this section, “telephonic
36 solicitation” means any telephone call or message made
37 by or on behalf of a telephonic solicitor for the purpose of
38 encouraging or soliciting the purchase, lease or rental of,
39 or investment in, real or personal property, goods, or
40 services, offering or soliciting any extension of credit for

1 ~~personal purposes, or seeking to obtain marketing~~
2 ~~information for any purpose, which is transmitted to any~~
3 ~~person.~~

4 ~~(3) Except as permitted under paragraph (4), a~~
5 ~~telephonic solicitor shall not make, or cause to be made,~~
6 ~~any telephonic solicitation to any residential, mobile~~
7 ~~(including a cellular or personal communication system~~
8 ~~telephone or similar device), or telephonic paging device~~
9 ~~telephone number if the number for that telephone~~
10 ~~appears on the "do not call list" prepared by the~~
11 ~~commission.~~

12 ~~(4) Notwithstanding paragraph (3), a telephonic~~
13 ~~solicitor may make, or cause to be made, a telephonic~~
14 ~~solicitation under any of the following circumstances:~~

15 ~~(A) In response to an express request of the person~~
16 ~~called.~~

17 ~~(B) To any person with whom the telephonic solicitor~~
18 ~~has a prior existing business relationship if the call is made~~
19 ~~not later than six months from the date of the last~~
20 ~~transaction. This subparagraph does not authorize any~~
21 ~~subsidiary or affiliate of the telephonic solicitor to make,~~
22 ~~or cause to be made, any telephonic solicitation.~~

23 ~~(C) Primarily in connection with an existing debt or~~
24 ~~contract, the payment or performance of which has not~~
25 ~~been completed at the time of the call.~~

26 ~~(D) In accordance with prior negotiations in the~~
27 ~~course of a visit to the solicitor's place of business by the~~
28 ~~person called. For the purposes of this subparagraph,~~
29 ~~"place of business" means a fixed, permanent location~~
30 ~~where consumer goods or services are displayed or~~
31 ~~offered for sale on a continuing basis.~~

32 ~~(E) In response to an advertisement placed by the~~
33 ~~person called.~~

34 ~~(d) The commission shall provide its "do not call list,"~~
35 ~~upon request, to telephonic solicitors for a fee. The~~
36 ~~amount of the fee shall not exceed the actual costs~~
37 ~~incurred by the commission in carrying out this article.~~
38 ~~The money shall be deposited in the Special Telephonic~~
39 ~~Solicitors Fund, which is hereby created. The money in~~

~~the fund is hereby continuously appropriated to the commission to carry out this article.~~

~~(e) It is the intent of the Legislature to provide a General Fund appropriation, in the form of a loan to the commission, in an amount sufficient to pay for program startup costs incurred by the commission.~~

~~(f) A person or entity that obtains access to the “do not call list” shall not use the list for any purpose other than to comply with this article.~~

~~(g) A contract made pursuant to a telephone call by a telephonic solicitor is not valid and enforceable unless the contract arises from a telephonic solicitation that is permitted under paragraph (4) of subdivision (c).~~

~~(h) (1) Any person who has received a telephonic solicitation that is prohibited by paragraph (3) of subdivision (c) may bring a civil action in any court of competent jurisdiction against a telephonic solicitor to recover or obtain one or more of the following:~~

~~(A) An order to enjoin a violation of paragraph (3) of subdivision (c).~~

~~(B) A civil penalty in the amount of five hundred dollars (\$500) for the first violation of paragraph (3) of subdivision (c), and one thousand dollars (\$1,000) for a second and each subsequent violation of that paragraph.~~

~~(C) Punitive damages.~~

~~(D) Court costs, including attorneys’ fees.~~

~~(E) Any other relief that the court deems proper.~~

~~(2) The Attorney General, or any district attorney or city attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California against a telephonic solicitor who has violated paragraph (3) of subdivision (c) to recover or obtain one or more of the following:~~

~~(A) An order to enjoin a violation of paragraph (3) of subdivision (c), and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has violated paragraph (3) of subdivision (c), the court may issue an injunction restraining further~~

1 ~~violations, without requiring proof that any person has~~
2 ~~been damaged by the violation.~~

3 ~~(B) A civil penalty in the amount of five hundred~~
4 ~~dollars (\$500) for the first violation of paragraph (3) of~~
5 ~~subdivision (e), and one thousand dollars (\$1,000) for a~~
6 ~~second and each subsequent violation of that paragraph.~~

7 ~~(C) Punitive damages.~~

8 ~~(D) Court costs, including attorneys' fees.~~

9 ~~(E) Any other relief that the court deems proper.~~

10 ~~(3) No civil penalty shall be assessed for a violation if~~
11 ~~the defendant shows by a preponderance of the evidence~~
12 ~~that the violation was not intentional and resulted from~~
13 ~~a bona fide error made notwithstanding the defendant's~~
14 ~~maintenance of procedures reasonably adopted to avoid~~
15 ~~the error.~~

16 ~~(i) This section applies to all telephonic solicitors doing~~
17 ~~business within this state. The term "doing business~~
18 ~~within this state" has the same meaning as defined in~~
19 ~~subdivision (a) of Section 17511.3 of the Business and~~
20 ~~Professions Code.~~

21 ~~2894.16. The rights, remedies, and penalties~~
22 ~~established by this article are in addition to the rights,~~
23 ~~remedies, or penalties established under other laws.~~

24 ~~2894.18. Any person who willfully violates this article~~
25 ~~is guilty of a misdemeanor.~~

26 ~~SEC. 4. Article 4.4 (commencing with Section 2899)~~
27 ~~is added to Chapter 10 of Part 2 of Division 1 of the Public~~
28 ~~Utilities Code, to read:~~

29
30 ~~Article 4.4. Directory Assistance Services~~
31

32 ~~2899. A telephone corporation, upon receiving a~~
33 ~~request for a telephone number in connection with its~~
34 ~~provision of directory assistance services, shall provide~~
35 ~~the telephone number to the requester at least two times~~
36 ~~before disconnecting the requester. No additional charge~~
37 ~~may be imposed upon a local telephone user for the costs~~
38 ~~that may be incurred in complying with this section.~~

39 ~~SEC. 5. The provisions of this act are severable. If any~~
40 ~~provision of this act or its application is held invalid, that~~

1 ~~invalidity shall not affect other provisions or applications~~
2 ~~that can be given effect without the invalid provision or~~
3 ~~application.~~

4 ~~SEC. 6. No reimbursement is required by this act~~
5 ~~pursuant to Section 6 of Article XIII B of the California~~
6 ~~Constitution because the only costs that may be incurred~~
7 ~~by a local agency or school district will be incurred~~
8 ~~because this act creates a new crime or infraction,~~
9 ~~eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section~~
11 ~~17556 of the Government Code, or changes the definition~~
12 ~~of a crime within the meaning of Section 6 of Article~~
13 ~~XIII B of the California Constitution.~~

14 ~~Notwithstanding Section 17580 of the Government~~
15 ~~Code, unless otherwise specified, the provisions of this act~~
16 ~~shall become operative on the same date that the act~~
17 ~~takes effect pursuant to the California Constitution.~~

18 -

